

**TOWN OF NEEDHAM
DISCIPLINARY POLICY AND PROCEDURES
PERSONNEL ADMINISTRATION #401**

I. PURPOSE AND SCOPE

The purpose of this document is to ensure that 1) employees meet the Town's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behavior is deficient are provided with the necessary assistance and motivation to meet the Town's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

II. APPLICABILITY

This policy applies to all paid, appointive employees in Town Service other than those positions under the supervision and control of the School Committee and the Trustees of Glover Memorial Hospital. Employees subject to Massachusetts Civil Service Laws and/or collective bargaining agreements are subject only to those provisions in this order which are not specifically regulated by Civil Service Laws or collective bargaining agreements.

III. DEFINITIONS

Refer to the Glossary of Terms in the Personnel Policy Manual for commonly used words and phrases. For the purposes of this policy, the words "warning" and "reprimand" are used interchangeably.

IV. POLICY

A. General Discipline Policy

The Town's disciplinary policy is one of progressive discipline. Employees must know what is expected of them, and what the consequences are for failing to meet these expectations. In general, the disciplinary process is set up as follows:

1. Oral Reprimand – May be initiated by the employee's immediate supervisor, department or division head. In all cases, the department head or his/her designee should be informed of the reprimand.
2. Written Reprimand – May be initiated by the employee's immediate supervisor, department or division head. In all cases, the department head must review and approve of the written reprimand.
3. Suspension and Discharge - May be initiated by the appointing authority or his/her designee. Discharge and suspension issues must be discussed with the Personnel Director prior to action.

B. Progressive Discipline

The authority to discipline employees in the power to speak definitively for the Town on standards of performance and behavior, and to enforce such standards by the application of appropriate sanctions.

In most cases, any disciplinary action initiated for an employee's first violation of a standard will be mild, such as informal or oral reprimands. Should such action be insufficient to cause the employee to comply with the standard, subsequent disciplinary action becomes progressively more severe until the employee has either corrected the deficiency or ceases to be an employee. In general, most of the procedures below should be followed for probationary employees. Even though probationary employees may be terminated without cause, they should be afforded an opportunity to improve their performance prior to being let go.

At each step the standard should be reiterated, and the employee offered any appropriate and reasonable assistance. The primary goal of each step in the disciplinary process is the correction of the problem. The goal is not to establish a basis for more severe disciplinary action.

In some areas the Town's expectations are obvious. Employees are expected to know that they may not steal, assault members of the public or other employees, or abuse their authority for private gain. Other than such obvious examples, it is generally not sufficient for supervisors or department heads to assume that the employee is aware of the Town's expectations; nor is it generally sufficient to assume that an employee knows that his/her performance is deficient or that his/her employment may be in jeopardy. All supervisors are obliged to communicate openly and honestly with their employees, and to ensure that all employees have read and understand the Personnel Policies, by-laws, civil service laws, and all other rules and regulations governing their employment.

V. **PROCEDURES**

A. General Procedures

Many authorities may be involved in the final resolution of discipline issues: the Personnel Director, the Town Administrator, the Civil Service Commission, the Board of Selectmen, the Personnel Board, and independent arbitrators. However, the standards for consideration are essentially the same:

1. There must exist sufficient cause to discipline the employee.
2. The harshness of the penalty must fit the seriousness of the action.

The employee must receive clear and unequivocal warning stating the precise areas in which his/her performance or behavior is unacceptable, and the probable consequences of the continuation of such behavior.

3. The employee must be given full opportunity to explain his/her actions and to reform or rehabilitate himself/herself.

4. The situation must be fully documented (unless it is a severe infraction which may be cause for immediate dismissal).

B. Specific Procedures

1. Oral Reprimand (See Sample, Attachment A)

The oral reprimand (or warning) is the least severe form of disciplinary action. In most cases it is the first form of disciplinary action taken against an employee. After meeting with the employee to communicate the warning, the department head/designee should prepare a written summary which is presented to the employee, and may be placed in the employee's official personnel file.

Both the oral reprimand and the written summary should contain as many elements listed below as are appropriate to the type of disciplinary problem involved:

- a. Rule Regulation or Policy Involved – The written summary should generally commence with a specific reference to the standard of performance or behavior involved. In the case of departmental standards, the supervisor must be able to begin this sentence with “As you know” such as, “As you know, the Library Trustees require that staff report to work at 8:30 a.m.”
- b. Facts Showing Deviation from Standard – The department head/designee should outline in detail the manner in which the employee failed to meet the standard. For example, “On December 6, 1990, you arrived at work at 9:07 a.m.”
- c. Consequence to the Town/Department – In this sentence the department head/designee outlines the practical significance of the employee's failure to comply with the standard, for example, “As a result of your failure to arrive at work in a timely manner, citizens were forced to wait outside in the snow.”
- d. Expected Performance or Behavior – In this sentence the supervisor should communicate to the employee the expectations of the Department: “You are expected to arrive at work when assigned.”
- e. Plan for Improvement – The supervisor devises a specific plan for assisting the employee in improving his/her performance, and may schedule more frequent supervisory meetings to provide additional training.
- f. Follow-up – This sentence sets the time frame within which the employee is expected to demonstrate improvement. The period must be long enough to provide a fair opportunity for the employee to improve, and short enough so that the Department does not have to tolerate unsatisfactory performance for an unreasonable length of time. The review period may be established by scheduling a review meeting, such as: “I will meet with you on January 22, at 8:30 a.m. to review your performance.”

- g. Warning – The final element of the reprimand is the warning. The department head/designee outlines to the employee the next step in the disciplinary process which will be initiated if the employee fails to improve sufficiently during the review period, for example, “If within the next month you do not comply with the standards outlined above, I will have no alternative but to recommend further disciplinary action such as a written reprimand or a disciplinary suspension.”

2. Written Reprimand (See sample, Attachment B)

The written reprimand shall always be placed in the employee’s official personnel file. It contains all of the elements of the oral reprimand listed above.

In most cases, this formal warning will be initiated only after an informal or oral warning has failed to bring about sufficient improvement. In some cases, in which the employee commits a fairly serious offense (e.g. insubordination) the written reprimand may be the first disciplinary action taken. As with the oral reprimand, the written reprimand should be issued following a meeting with the employee.

3. Suspension (See sample Attachments C1 and C2)

Suspension is the temporary and involuntary separation of an employee from his/her employment. The purpose of a suspension is to serve as a final warning to an employee that continued misbehavior or poor performance may result in discharge. Suspension is generally imposed only when prior warnings or reprimands have not caused the employee to bring his/her performance or behavior up to the expected standard. In some cases involving serious misconduct, suspension may be the first disciplinary action taken.

Except in cases of serious misconduct, one or more suspensions should precede the discharge of any tenured employee. A probationary employee need not be suspended prior to discharge (although a pre-termination hearing is mandatory). Appointing authorities should contact the Personnel Director prior to implementing a suspension. (See sample recommendation, Attachment C1).

In cases where the Department Head and Personnel Director determine that the unsatisfactory employee should be suspended for a period of more than five (5) days, the employee shall be granted a hearing before the department head and the Personnel Director prior to the imposition of the suspension.

All suspensions shall be reduced to writing including all of the reprimand elements listed above, and shall be forwarded to the Personnel Director for inclusion in the employee’s official personnel file.

4. Discharge (See sample Attachment D)

Discharge is the permanent and involuntary separation of a person from his/her employment with the Town. Because of its severity, action to discharge an employee is generally initiated only after the oral and written reprimand processes and one or

more suspensions have failed to bring about the employee's conformance with the requisite standards of performance or behavior.

Action to discharge a probationary employee will generally not be initiated until the employee has been clearly warned that his/her continued poor performance or inappropriate behavior could lead to his/her discharge and until the employee has been given a fair opportunity to improve following the warning.

In cases involving serious misconduct (e.g. theft, assault) discharge may be initiated without any prior warnings or suspensions.

In all cases in which the department head and Personnel Director determine that discharge may be warranted, the employee shall be given a hearing by the department head and the Personnel Director prior to the imposition of such discharge. If discharged, the employee will be given a written notice stating the reason(s) for the discharge and the effective date of termination of employment with the Town. Such notice shall be included in the employee's official personnel file.

5. Alternatives to Suspension or Discharge

Prior to the initiation of action to suspend or discharge an employee, consideration should be given to other alternatives such as demotion or reassignment to other duties. These alternatives will be appropriate only in a small percentage of cases. Their use as disciplinary measures will be strictly scrutinized. Demotion or reassignment should be considered only when the employee has previously demonstrated an ability to perform the duties of the position to which demotion or reassignment is contemplated.

C. The Disciplinary Interview

Whenever possible, a meeting between the employee and department head/designee should precede the initiation of any disciplinary action against the employee. (Bargaining Unit employees who so request are entitled to union representation at any meeting which the employee perceives to be of a disciplinary nature. However, the department head may speak directly to the employee and request that the employee answer questions. The department head should allow such employee a reasonable amount of time to secure union representation.)

1. The primary goals of the meeting are:

- a. to determine whether the employee has in fact failed to comply with a required standard;
- b. if so, to identify why the employee failed to meet the standard;
- c. To inform the employee exactly what will be expected of him/her in order to avoid further disciplinary action and to offer any appropriate assistance; and

- d. to warn the employee of the consequences of his/her continued failure to comply with established standards.
- 2. If the Disciplinary Action under consideration is demotion, reassignment or discharge, the Department Head/designee should also attempt to ascertain:
 - a. whether any preceding disciplinary action was properly implemented, including proper follow-up on improvement plans; and
 - b. to determine whether the employee has a documented history of satisfactory performance in another position. If so, demotion or reassignment might be considered an appropriate alternative to discharge.

EFFECTIVE JUNE 4, 1991

ATTACHMENT A
Sample Oral Reprimand

TO: Rosemarie Boggs, Department Assistant 3

FROM: Thomas Yawkey, Department Head

DATE: September 1, 1990

RE: Oral Reprimand

This memorandum will confirm our discussion on August 29, 1990.

As you know, Department policy requires that all employees assume their assigned duties at 8:30 a.m. The purpose of this policy is to ensure appropriate service to the public.

On July 28, 1990, August 2, 1990, August 12, 1990, and August 18, 1990, you reported to work late, at 8:45, 8:35, 9:01, and 8:40 respectively. As a result of your tardiness, customers were kept waiting outside our office.

During the month of September, 1990 you will be expected to report work in a timely manner in order to avoid further disciplinary action. In an effort to assist you in improving your work performance, I will discuss this matter with you again on September 15, 1990, at 8:30 a.m.

On September 30, 1990, we will meet again to review your progress over the month of September. If you fail to report to work in a timely manner during the month of September, I will have no alternative but to issue you a written reprimand which will become a permanent part of your personnel file.

If you have any questions, please let me know.

Employee

Department Head

Date: _____

Date: _____

ATTACHMENT B
Sample Written Reprimand

TO: Rosemarie Boggs, Department Assistant 3
FROM: Thomas Yawkey, Department Head
DATE: October 4, 1990
RE: Written Reprimand

This memorandum will confirm our discussion of October 3, 1990.

As you know, my memorandum of September 1, 1990, instructed you to report to work in a timely manner during the month of September. On September 9, 1990, and September 26, 1990, you reported to work at 8:50 a.m. and 9:06 a.m., respectively. I have previously informed you of the importance of this aspect of your job performance and your failure to open the office on time has caused embarrassment to this office and has provoked complaints from taxpayers.

During the month of October, you will again be required to report to work in a timely manner (8:30 a.m.) in order to avoid further disciplinary action. I will continue to meet with you in an effort to assist you in improving your performance.

On Wednesday, November 1, 1990, at 3:00 p.m. we will meet to review your progress. I must caution you that if you continue to fail to report to work on time, I will discuss with the Commission and the Personnel Director the possibility of suspending you for one (1) day without pay.

If you have any questions, please let me know. A copy of this written reprimand and any previous reprimands regarding this same infraction will be placed in your personnel file.

Employee

Department Head

Date: _____

Date: _____

Cc: Personnel File

ATTACHMENT C1
Suspension Recommendation

TO: Sheila Harrington, Personnel Director

FROM: Thomas Yawkey, Department Head

DATE: November 18, 1990

RE: Suspension Recommendation

On November 3, 1990, I met with Rosemarie Boggs to review her progress in reporting to work in a timely manner. Based upon the fact that:

1. On October 20, 1990, and October 31, 1990, she reported to work at 9:00 a.m. and 9:40 a.m. respectively; and
2. She has you have previously received an oral and a written reprimand;

I am recommending to the Commission that she be suspended for one day without pay. I would like you to review this case to determine whether you believe a one (1) day suspension to be warranted before I speak to the Commission.

I will continue to meet with Ms. Boggs to review her progress. If she continues to fail to report in a timely manner, I will recommend a further suspension of three (3) days without pay.

ATTACHMENT C2
Sample Letter of Suspension

Ms. Rosemarie Boggs
13 Lone Star Street
Needham, MA 02492

Dear Ms. Boggs,

On November 2, 1990, I met with you to review your progress in reporting to work in a timely manner. Based upon the fact that:

1. On October 20, 1990, and October 31, 1990, you reported to work at 9:00 a.m. and 9:40 a.m. respectively; and
2. You have previously received an oral and a written reprimand;

I have consulted with Personnel Director Harrington and have recommended to the Commission that you be suspended for one day without pay. The Commission has directed me to inform you that they are in agreement with me and with the Personnel Director. As a result, you will be suspended for (1) day without pay for your continued failure to report to work in a timely manner. The date of your suspension will be November 24, 1990.

I will continue to meet with you to review your progress. If you continue to fail to report to work in a timely manner I will recommend a further suspension of three (3) days without pay.

If you have any questions, please let me know. (Your rights in this matter are contained in Article X of the Y/Z Collective Bargaining Agreement.) A copy of this letter will be placed in your official personnel file.

Employee

Department Head

Date: _____

Cc: Personnel File
Appointing Authority
Union Representative

ATTACHMENT C3
Sample Suspension Letter After a Hearing

January 31, 1991

Ms. Rosemarie Boggs
13 Lone Star Street
Needham, MA 02492

Dear Ms. Boggs,

As you are aware, a hearing was held on December 28, 1991, regarding your failure to report to work in a timely manner.

In attendance at the hearing were: yourself, Ms. Sheila Harrington, Personnel Director, Mr. Thomas Yawkey, Department Head, and Jane Clemmens, Town Hall Association Vice President.

The record indicates that on September 1, 1990, you received an oral reprimand for failing to report to work in a timely manner. Subsequently you received a written reprimand on October 4, 1990 for your continued pattern of tardiness.

On November 4, 1990, Mr. Yawkey recommended to the Personnel Director that you be suspended for one day without pay, which was approved. A subsequent three (3) day suspension was approved on December 15, 1990.

Since that time, you have been tardy on eight occasions:

December 21	5 minutes
December 24	10 minutes
December 28	27 minutes
January 3	2 hours
January 13	13 minutes
January 15	4 minutes
January 17	12 minutes
January 21	31 minutes

Based upon the evidence and testimony presented at the hearing, which was reported to me by Ms. Harrington and Mr. Yawkey, and a review of your personnel file, I find that you have established a pattern of failing to report to work on time.

Boggs/2
January 31, 1991

As a result, I am concurring with the recommendation of Mrs. Harrington and Mr. Yawkey, and you will be suspended for five (5) consecutive days without pay. The dates of your suspension will be given to you by Mr. Yawkey.

Please be aware that further incidents of this nature will result in subsequent disciplinary action up to and including discharge from Town Service.

Your rights in this matter are contained in Article X of the Y/Z Association Agreement.

Very truly yours,

Appointing Authority

Cc: Personnel File
Ms. Harrington
Mr. Yawkey
Ms. Clemmens

ATTACHMENT E
Sample Letter of Dismissal

February 23, 1991

Ms. Rosemarie Boggs
13 Lone Star Street
Needham, MA 02492

Dear Ms. Boggs,

As you are aware, a pre-termination hearing was held on February 20, 1991, regarding your continued failure to report to work in a timely manner.

In attendance, besides you and I, were the following: Ms. Sheila Harrington, Personnel Director, Mr. Thomas Yawkey, Department Head, Ms. Jane Clemmens, Association Vice President, and Robert Slider, Esquire.

The Record indicates that you were issued an oral reprimand by Mr. Yawkey on September 1, 1990, for failing to report to work in a timely manner. On October 4, 1990, you were issued a written reprimand for the same issue.

On November 4, 1990, you were given a suspension for one (1) day without pay, for three (3) days on November 21, and for five (5) days on January 31, 1991, all for your continued failure to report to work in a timely manner. Since that time you have been late for work five (5) times as follows:

February 3	10 minutes
February 6	2 minutes
February 7	19 minutes
February 12	21 minutes
February 17	12 minutes

Based on the evidence and testimony presented at the hearing, and a review of your personnel file, I find that you have exhibited a clear pattern of poor work performance in the form of failing to report to work in a timely manner.

As a result, your services with the Town of Needham have been terminated effective immediately. Your rights in this matter are contained in Article X of the Y/Z Collective Bargaining Agreement.

Very truly yours,

Appointing Authority